

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1001 be amended to read as follows:

- 1 Page 21, between lines 18 and 19 begin a new line blocked left and
- 2 insert:
- 3 **"Of the total amount appropriated FOR THE DEPARTMENT OF**
- 4 **CORRECTION, the budget agency, notwithstanding IC 4-13-2-18,**
- 5 **may not allot \$1,105,450,000 for the biennium. However, the**
- 6 **amount which may not be allotted does not include the \$50,650,000**
- 7 **appropriated for Community Corrections Programs.**
- 8 **Notwithstanding IC 4-13-2-18, the budget agency shall allot the**
- 9 **entire appropriation for Community Corrections Programs."**
- 10 Page 92, between lines 32 and 33, begin a new paragraph and insert:
- 11 "SECTION 39. IC 4-3-12-2 IS AMENDED TO READ AS
- 12 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The articles of
- 13 incorporation and bylaws of the Indiana small business development
- 14 corporation must provide that:
- 15 (1) the exclusive purpose of the corporation is to contribute to the
- 16 strengthening of the economy of the state by encouraging the
- 17 organization and development of new business enterprises,
- 18 including technologically oriented enterprises;
- 19 (2) the board of directors of the corporation is composed of:
- 20 (A) ~~the lieutenant governor or~~ the lieutenant governor's
- 21 designee;
- 22 (B) two (2) persons appointed by the governor from
- 23 recommendations provided by statewide business
- 24 organizations;

1 (C) two (2) persons appointed by the governor to represent
 2 local host organizations of the small business development
 3 center network; and
 4 (D) three (3) persons appointed by the governor, who must
 5 have experience in business, finance, education,
 6 entrepreneurship, or technology development; and
 7 (E) one (1) person appointed by the governor to represent
 8 nontraditional entrepreneurs (as defined in IC 4-3-13-6);
 9 ~~(3) the governor shall appoint one (1) of the members of the board~~
 10 ~~of directors to serve as chairman of the board at the pleasure of~~
 11 ~~the governor; shall elect one (1) of the members to serve as~~
 12 ~~chairperson;~~
 13 (4) **subject to subdivision (6),** the corporation may receive
 14 money from any source, may enter into contracts, and may expend
 15 money for any activities appropriate to its purpose;
 16 (5) **subject to subdivision (6),** the corporation may appoint staff
 17 and do all other things necessary or incidental to carrying out the
 18 functions listed in section 3 of this chapter;
 19 **(6) the exercise of the corporation's powers under this chapter**
 20 **is subject to the review and approval of the economic**
 21 **development corporation;**
 22 ~~(6) (7)~~ any changes in the articles of incorporation or bylaws must
 23 be approved by the ~~governor~~; **economic development**
 24 **corporation;**
 25 ~~(7) (8)~~ the corporation shall submit an annual report to the
 26 governor and to the Indiana general assembly on or before the
 27 first day of November for each year;
 28 ~~(8) (9)~~ the annual report shall include detailed information on the
 29 structure, operation, and financial status of the corporation;
 30 ~~(9) (10)~~ the corporation shall conduct an annual public hearing to
 31 receive comment from interested parties regarding the annual
 32 report, and notice of the hearing shall be given at least fourteen
 33 (14) days prior to the hearing in accordance with
 34 IC 5-14-1.5-5(b); and
 35 ~~(10) (11)~~ the corporation is subject to an annual audit by the state
 36 board of accounts, and the corporation shall bear the full costs of
 37 this audit.
 38 (b) Not more than five (5) of the members of the board of directors
 39 of the corporation may be members of the same political party.
 40 SECTION 40. IC 4-3-13.7 IS ADDED TO THE INDIANA CODE
 41 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2003]:
 43 **Chapter 13.7. Economic Development Corporation**
 44 **Sec 1. As used in this chapter, "corporation" refers to the**
 45 **economic development corporation established by section 2 of this**
 46 **chapter.**

1 **Sec 2. (a) There is established a body politic and corporate, not**
2 **a state agency but an independent instrumentality exercising**
3 **essential public functions, to be known as the economic**
4 **development corporation.**

5 **(b) The corporation is composed of the following twenty-one**
6 **(21) members, none of whom may be members of the general**
7 **assembly:**

8 **(1) Three (3) persons appointed by the governor who must be**
9 **employed in or retired from the private or nonprofit sector**
10 **but may not represent organized labor. Appointments made**
11 **under this subdivision are also subject to the requirements of**
12 **subsection (c).**

13 **(2) Three (3) persons appointed by the lieutenant governor**
14 **who must be employed in or retired from the private or**
15 **nonprofit sector but may not represent organized labor.**
16 **Appointments made under this subdivision are also subject to**
17 **the requirements of subsection (c).**

18 **(3) Two (2) persons appointed by the speaker of the house of**
19 **representatives who must be employed in or retired from the**
20 **private or nonprofit sector. One (1) of these appointees must**
21 **represent organized labor and the other appointee may not**
22 **represent organized labor.**

23 **(4) Two (2) persons appointed by the minority leader of the**
24 **house of representatives who must be employed in or retired**
25 **from the private or nonprofit sector. One (1) of these**
26 **appointees must represent organized labor and the other**
27 **appointee may not represent organized labor.**

28 **(5) Two (2) persons appointed by the president pro tempore**
29 **of the senate who must be employed in or retired from the**
30 **private or nonprofit sector. One (1) of these appointees must**
31 **represent organized labor and the other appointee may not**
32 **represent organized labor.**

33 **(6) Two (2) persons appointed by the minority leader of the**
34 **senate who must be employed in or retired from the private**
35 **or nonprofit sector. One (1) of these appointees must**
36 **represent organized labor and the other appointee may not**
37 **represent organized labor.**

38 **(7) One (1) person appointed by the president of Indiana**
39 **University who must be employed in or retired from the**
40 **private or nonprofit sector or academia, but may not**
41 **represent organized labor.**

42 **(8) One (1) person appointed by the president of Purdue**
43 **University who must be employed in or retired from the**
44 **private or nonprofit sector or academia, but may not**
45 **represent organized labor.**

46 **(9) One (1) person appointed by the president of Indiana State**
47 **University who must be employed in or retired from the**

private or nonprofit sector or academia, but may not represent organized labor.

(10) One (1) person appointed by the president of Ball State University who must be employed in or retired from the private or nonprofit sector or academia, but may not represent organized labor.

(11) One (1) person appointed by the president of the University of Southern Indiana who must be employed in or retired from the private or nonprofit sector or academia, but may not represent organized labor.

(12) One (1) person appointed by the president of Ivy Tech State College who must be employed in or retired from the private or nonprofit sector or academia, but may not represent organized labor.

(13) One (1) person appointed by the president of Vincennes University who must be employed in or retired from the private or nonprofit sector or academia, but may not represent organized labor.

(c) The governor and lieutenant governor shall coordinate their appointments under subsection (b)(1) and (b)(2) so that those appointments include at least one (1) representative from each of the following industry sectors:

(1) Advanced manufacturing, such as automotive, electronics, aerospace, robotics, or engineering design technology.

(2) Information technology, such as informatics, certified network administration, software development, or fiber optics.

(3) Life sciences, such as orthopedics, medical devices, biomedical research and development, pharmaceutical manufacturing, agribusiness, nanotechnology, or molecular manufacturing.

(4) Logistics, such as high technology distribution, intermodal ports, or flow and storage of goods, services, and information.

(5) Public utilities (as defined in IC 8-1-2-1).

Sec. 3. The terms of office of the members of the corporation are as follows:

(1) Members appointed by the governor, lieutenant governor, president pro tempore of the senate, or minority leader of the senate serve for terms of four (4) years.

(2) Members appointed by the speaker of the house of representatives, the minority leader of the house of representatives, or the president of a university or college serve for terms of two (2) years.

Each member shall hold office for the term of appointment and shall continue to serve after expiration of the appointment until a successor is appointed and qualified. Members are eligible for reappointment.

1 **Sec. 4. (a) The governor may designate a member of the**
2 **corporation appointed by the governor under section 2(b)(1) of this**
3 **chapter to serve as chairperson. However, if the governor does not**
4 **designate a chairperson, the members shall elect a chairperson**
5 **from among the members.**

6 **(b) The members of the corporation are entitled to a salary per**
7 **diem for attending meetings equal to the per diem provided by law**
8 **for members of the general assembly. The members of the**
9 **corporation shall receive reimbursement for actual and necessary**
10 **expenses on the same basis as state employees.**

11 **Sec. 5. Fourteen (14) members constitute a quorum for the**
12 **transaction of business. The affirmative vote of at least eleven (11)**
13 **members is necessary for any action to be taken by the**
14 **corporation. Members may vote by written proxy delivered in**
15 **advance to any other member who is present at the meeting.**

16 **Sec. 6. Meetings of the corporation shall be held at the call of the**
17 **chairperson or whenever any five (5) members request a meeting.**
18 **The members shall meet at least once every three (3) months to**
19 **attend to the business of the corporation.**

20 **Sec. 7. (a) The corporation may, without the approval of the**
21 **attorney general or any other state officer, employ bond counsel,**
22 **other legal counsel, technical experts, and other officers, agents,**
23 **and employees, permanent or temporary, the corporation**
24 **considers necessary to carry out the efficient operation of the**
25 **corporation.**

26 **(b) The corporation shall determine qualifications, duties,**
27 **compensation, and terms of service for persons designated in**
28 **subsection (a).**

29 **(c) Employees of the corporation are not employees of the state.**

30 **Sec. 8. The corporation is granted all powers necessary or**
31 **appropriate to carry out and effectuate the corporation's public**
32 **and corporate purposes under this chapter.**

33 **Sec. 9. The purpose of the corporation is to improve the quality**
34 **of life for the citizens of Indiana by encouraging:**

- 35 **(1) the diversification of Indiana's economy;**
36 **(2) the creation of new jobs;**
37 **(3) the retention of existing jobs;**
38 **(4) the growth and modernization of existing industry; and**
39 **(5) the promotion of the state.**

40 **Sec. 10. The corporation shall be responsible for overseeing the**
41 **operations of the Indiana small business development corporation**
42 **under IC 4-3-12-1 and the Indiana economic development council**
43 **under IC 4-3-14.**

44 **Sec. 11. The corporation may incur debt. Debt incurred by the**
45 **corporation does not represent or constitute a debt of the state**
46 **within the meaning of the Constitution of the State of Indiana or**
47 **Indiana statutes.**

SECTION 41. IC 4-3-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The articles of incorporation or bylaws of the corporation, as appropriate, must provide that:

(1) the exclusive purpose of the corporation is to contribute to the strengthening of the economy of the state by:

(A) coordinating the activities of all parties having a role in the state's economic development through evaluating, overseeing, and appraising those activities on an ongoing basis;

(B) overseeing the implementation of the state's economic development plan and monitoring the updates of that plan; and

(C) educating and assisting all parties involved in improving the long range vitality of the state's economy;

(2) the board must include:

~~(A) the governor;~~

~~(B)~~ (A) a designee of the lieutenant governor;

~~(C) the chief operating officer of the corporation;~~

~~(D) the chief operating officer of the corporation for Indiana's international future; and~~

~~(E)~~ (B) additional eight (8) persons appointed by the governor, not more than four (4) of whom may be of the same political party, who are actively engaged in Indiana in private enterprise, organized labor, state or local governmental agencies, and education, and who represent the diverse economic and regional interests throughout Indiana;

(3) the ~~governor shall serve as~~ members shall elect a chairman of the board of the corporation, and the ~~lieutenant governor shall serve as the members,~~ with the approval of the economic development corporation, shall select an chief executive officer executive director of the corporation;

(4) the ~~governor~~ members shall appoint elect as vice chairman of the board a member of the board engaged in private enterprise;

(5) the ~~lieutenant governor executive director of the corporation~~ shall be responsible as chief executive officer for overseeing implementation of the state's economic development plan as articulated by the corporation and shall oversee the activities of the corporation's chief operating officer corporation;

~~(6) the governor may appoint an executive committee composed of members of the board (size and structure of the executive committee shall be set by the articles and bylaws of the corporation);~~

~~(7)~~ (6) subject to subdivision (7), the corporation may receive funds from any source and may expend funds for any activities necessary, convenient, or expedient to carry out its purposes;

(7) the exercise of the corporation's powers under this chapter is subject to the review and approval of the economic

development corporation;

(8) any amendments to the articles of incorporation or bylaws of the corporation must be approved by the ~~governor~~; **board of the economic development corporation;**

(9) the corporation shall submit an annual report to the governor and to the Indiana general assembly on or before the first day of November for each year;

(10) the corporation shall conduct an annual public hearing to receive comment from interested parties regarding the annual report, and notice of the hearing shall be given at least fourteen (14) days prior to the hearing in accordance with IC 5-14-1.5-5(b); and

(11) the corporation is subject to an annual audit by the state board of accounts, and the corporation shall bear the full costs of this audit.

(b) **Subject to subsection (a)(7)**, the corporation may perform other acts and things necessary, convenient, or expedient to carry out the purposes identified in this section, and it has all rights, powers, and privileges granted to corporations by IC 23-17 and by common law.

SECTION 42. IC 4-4-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter:

"Department" shall mean the department of ~~commerce~~ **tourism and community development** provided for by this chapter.

"Director" shall mean the director of the department.

SECTION 43. IC 4-4-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. There is hereby created a state department to be known as the department of ~~commerce~~; **tourism and community development**. The lieutenant governor, by virtue of his office, shall serve as director of the department and commissioner of agriculture, and he shall receive no additional salary in these capacities."

Page 105, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 58. IC 5-10.2-2-2.5, AS AMENDED BY P.L.61-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.5. (a) Each board may establish investment guidelines and limits on all types of investments (including, but not limited to, stocks and bonds) and take other actions necessary to fulfill its duty as a fiduciary for all assets under its control, subject to the limitations and restrictions set forth in **section 18 of this chapter**, IC 5-10.3-5-3, and IC 21-6.1-3-9.

(b) Each board may commingle or pool assets with the assets of any other persons or entities. This authority includes, but is not limited to, the power to invest in commingled or pooled funds, partnerships, or mortgage pools. In the event of any such investment, the board shall keep separate detailed records of the assets invested. Any decision to

commingle or pool assets is subject to the limitations and restrictions set forth in **section 18 of this chapter**, IC 5-10.3-5-3 and IC 21-6.1-3-9.

SECTION 59. IC 5-10.2-2-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 18. (a) As used in this section, "alternative investment" means capital invested in the privately held equity or debt assets of a domestic or an international private business and includes investment in any of the following:**

- (1) Unlisted or illiquid common and preferred stock.**
- (2) Venture capital.**
- (3) Corporate buyouts and acquisitions.**
- (4) Restructuring, recovery, and hedge funds.**
- (5) Limited and blind pool partnerships.**
- (6) Special situation and private finance investments.**
- (7) Limited liability companies.**
- (8) Group trusts.**
- (9) Unsecured, undersecured, subordinated senior, or convertible loans or debt securities of privately held companies.**
- (10) Real estate investment trusts, mortgages, "turn around" situations, commercial leases, and joint ventures.**
- (11) Commodity trading.**

(b) If the board decides to allocate part of the fund assets to alternative investments, the board shall invest at least twenty percent (20%) of the amount allocated to alternative investments in alternative investments in Indiana, except as provided in subsection (c).

(c) The board is not required to make the entire twenty percent (20%) investment referred to in subsection (b) if the board exercising financial and fiduciary prudence determines that sufficient appropriate alternative investments are not available in Indiana.

(d) If the board does not invest the entire twenty percent (20%) required by subsection (b) because the board makes a determination described in subsection (c), the board may not invest the amount that the board was not able to invest in alternative investments in Indiana in alternative investments outside Indiana. The board may invest the amount that the board was not able to invest in alternative investments in Indiana in other investments that the board determines are compatible with the board's financial and fiduciary responsibilities.

SECTION 60. IC 5-10.3-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3. (a) The board shall invest its assets with the care, skill, prudence, and diligence that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character with like**

1 aims. The board shall also diversify such investments in accordance
 2 with prudent investment standards, **subject to the limitations and**
 3 **restrictions set forth in IC 5-10.2-2-18.**

4 (b) The board may invest up to five percent (5%) of the excess of its
 5 cash working balance in debentures of the corporation for innovation
 6 development subject to IC 30-4-3-3.

7 (c) The board is not subject to IC 4-13, IC 4-13.6, and IC 5-16 when
 8 managing real property as an investment. Any management agreements
 9 entered into by the board must ensure that the management agent acts
 10 in a prudent manner with regard to the purchase of goods and services.
 11 Contracts for the management of investment property shall be
 12 submitted to the governor, the attorney general, and the budget agency
 13 for approval. A contract for management of real property as an
 14 investment:

15 (1) may not exceed a four (4) year term and must be based upon
 16 guidelines established by the board;

17 (2) may provide that the property manager may collect rent and
 18 make disbursements for routine operating expenses such as
 19 utilities, cleaning, maintenance, and minor tenant finish needs;

20 (3) must establish, consistent with the board's duty under
 21 IC 30-4-3-3(c), guidelines for the prudent management of
 22 expenditures related to routine operation and capital
 23 improvements; and

24 (4) may provide specific guidelines for the board to purchase new
 25 properties, contract for the construction or repair of properties,
 26 and lease or sell properties without individual transactions
 27 requiring the approval of the governor, the attorney general, the
 28 Indiana department of administration, and the budget agency.
 29 However, each individual contract involving the purchase or sale
 30 of real property is subject to review and approval by the attorney
 31 general at the specific request of the attorney general.

32 (d) Whenever the board takes bids in managing or selling real
 33 property, the board shall require a bid submitted by a trust (as defined
 34 in IC 30-4-1-1(a)) to identify all of the following:

35 (1) Each beneficiary of the trust.

36 (2) Each settlor empowered to revoke or modify the trust."

37 Page 107, between lines 23 and 24, begin a new paragraph and
 38 insert:

39 "SECTION 61. IC 6-1.1-3-22, AS ADDED BY P.L.192-2002(ss),
 40 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JANUARY 1, 2004]: Sec. 22. (a) Except to the extent that it conflicts
 42 with a statute, 50 IAC 4.2 (as in effect January 1, 2001) is incorporated
 43 by reference into this section.

44 (b) **Subject to subsection (c)**, tangible personal property within the
 45 scope of 50 IAC 4.2 (as in effect January 1, 2001) shall be assessed on
 46 the assessment dates in calendar years 2003 and thereafter in

conformity with 50 IAC 4.2 (as in effect January 1, 2001).

~~(c) The publisher of the Indiana Administrative Code may continue to publish 50 IAC 4.2 (as in effect January 1, 2001) in the Indiana Administrative Code.~~

(c) No minimum valuation shall be applied to the total valuation of a taxpayer's assessable depreciable personal property as described in 50 IAC 4.2-4-9 (as in effect January 1, 2001).

(d) 50 IAC 4.3 and any other rule to the extent that it conflicts with this section is void.

(e) A reference in 50 IAC 4.2 to a governmental entity that has been terminated or a statute that has been repealed or amended shall be treated as a reference to its successor.

SECTION 62. IC 6-1.1-8-44, AS ADDED BY P.L.192-2002(ss), SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 44.(a) Except to the extent that it conflicts with a statute, 50 IAC 5.1 (as in effect January 1, 2001) is incorporated by reference into this section.

(b) **Subject to subsection (c)**, tangible personal property within the scope of 50 IAC 5.1 (as in effect January 1, 2001) shall be assessed on the assessment dates in calendar years 2003 and thereafter in conformity with 50 IAC 5.1 (as in effect January 1, 2001).

~~(c) The publisher of the Indiana Administrative Code may continue to publish 50 IAC 5.1 (as in effect January 1, 2001) in the Indiana Administrative Code.~~

(c) No minimum valuation shall be applied to the total value of a taxpayer's distributable depreciable personal property or to the total value of the taxpayer's locally assessed depreciable personal property as described in 50 IAC 5.1-6-9 (as in effect January 1, 2001).

(d) 50 IAC 5.2 and any other rule to the extent that it conflicts with this section is void.

(e) A reference in 50 IAC 5.1 to a governmental entity that has been terminated or a statute that has been repealed or amended shall be treated as a reference to its successor."

Page 109, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 66. IC 6-2.5-5-39 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 39. (a) As used in this section, "product" includes a pilot model, a process, a formula, an invention, a technique, a patent, or a similar property. The term includes property to be used in a taxpayer's trade or business and property to be held for sale, lease, or license, regardless of whether the property is ultimately placed in service, sold, leased, or licensed.

(b) As used in this section, "research and development" means

laboratory or experimental activity to develop or improve a product or to discover information that would eliminate uncertainty concerning the development or improvement of a product.

(c) The term "research and development" does not include any of the following:

(1) The ordinary testing or inspection of materials or products for quality control. The quality control testing to which this subdivision applies includes testing or inspection to determine whether particular units of materials or products conform to specified parameters. Quality control testing does not include testing to determine if the design of a product is appropriate.

(2) Efficiency surveys.

(3) Management studies.

(4) Consumer surveys.

(5) Advertising or promotions.

(6) The acquisition of another's patent, model, production, process, or other product.

(7) Research in connection with literary, historical, or similar projects.

(8) Activities to ascertain the existence, location, extent, or quality of any deposit of oil, gas, ore, or other mineral.

(9) Assembly, construction, or installation of property that is placed in service or held for sale, lease, or license.

(d) As used in this section, "uncertainty" means the unavailability to the taxpayer of information necessary to establish the capability or method for developing or improving the product or the appropriate design of the product.

(e) Transactions involving tangible personal property are exempt from the state gross retail tax if the person acquiring the property acquires it for direct use in research and development."

Page 112, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 69. IC 6-3-1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 24. The term "sales" means all gross receipts of the taxpayer not allocated under ~~IC 6-3-2-2(g)~~ **IC 6-3-2-2(e)** through ~~IC 6-3-2-2(k)~~, **IC 6-3-2-2(i)**, other than compensation (as defined in section 23 of this chapter).

SECTION 70. IC 6-3-2-2, AS AMENDED BY P.L.192-2002(ss), SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 2. (a) With regard to corporations and nonresident persons, "adjusted gross income derived from sources within Indiana", for the purposes of this article, shall mean and include:

(1) income from real or tangible personal property located in this state;

(2) income from doing business in this state;

(3) income from a trade or profession conducted in this state;

(4) compensation for labor or services rendered within this state;
and

(5) income from stocks, bonds, notes, bank deposits, patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other intangible personal property if the receipt from the intangible is attributable to Indiana under section 2.2 of this chapter.

In the case of nonbusiness income described in subsection ~~(g)~~; **(e)**, only so much of such income as is allocated to this state under the provisions of subsections ~~(h)~~ **(f)** through ~~(k)~~ **(i)** shall be deemed to be derived from sources within Indiana. In the case of business income, only so much of such income as is apportioned to this state under the provision of subsection (b) shall be deemed to be derived from sources within the state of Indiana. In the case of compensation of a team member (as defined in section 2.7 of this chapter) only the portion of income determined to be Indiana income under section 2.7 of this chapter is considered derived from sources within Indiana. In the case of a corporation that is a life insurance company (as defined in Section 816(a) of the Internal Revenue Code) or an insurance company that is subject to tax under Section 831 of the Internal Revenue Code, only so much of the income as is apportioned to Indiana under subsection (r) is considered derived from sources within Indiana.

(b) Except as provided in subsection ~~(i)~~; **(j)**, if business income of a corporation or a nonresident person is derived from sources within the state of Indiana and from sources without the state of Indiana, then the business income derived from sources within this state shall be determined by multiplying the business income derived from sources both within and without the state of Indiana by a ~~fraction~~; **the numerator of which is the property factor plus the payroll factor plus the sales factor. and the denominator of which is three (3). However, after a period of two (2) consecutive quarters of income growth and one (1) additional quarter (regardless of any income growth); the fraction shall be computed as follows:**

(1) For all taxable years that begin within the first calendar year immediately following the period; the numerator of the fraction is the sum of the property factor plus the payroll factor plus one hundred thirty-three percent (133%) of the sales factor; and the denominator of the fraction is three and thirty-three hundredths (3.33).

(2) For all taxable years that begin within the second calendar year following the period; the numerator of the fraction is the property factor plus the payroll factor plus one hundred sixty-seven percent (167%) of the sales factor; and the denominator of the fraction is three and sixty-seven hundredths (3.67).

(3) For all taxable years beginning on or after January 1 of the

1 third calendar year following the period; the numerator of the
 2 fraction is the property factor plus the payroll factor plus two
 3 hundred percent (200%) of the sales factor; and the denominator
 4 of the fraction is four (4).

5 For purposes of this subsection, income growth occurs when the state's
 6 nonfarm personal income for a calendar quarter increases in
 7 comparison with the state's nonfarm personal income for the
 8 immediately preceding quarter at an annualized compound rate of five
 9 percent (5%) or more; as determined by the budget agency based on
 10 current dollar figures provided by the Bureau of Economic Analysis of
 11 the United States Department of Commerce or its successor agency.
 12 The annualized compound rate shall be computed in accordance with
 13 the formula $(1+N)^4-1$, where N equals the percentage change in the
 14 state's current dollar nonfarm personal income from one (1) quarter to
 15 the next. As soon as possible after two (2) consecutive quarters of
 16 income growth, the budget agency shall advise the department of the
 17 growth.

18 (c) The property factor is a fraction; the numerator of which is the
 19 average value of the taxpayer's real and tangible personal property
 20 owned or rented and used in this state during the taxable year and the
 21 denominator of which is the average value of all the taxpayer's real and
 22 tangible personal property owned or rented and used during the taxable
 23 year. However, with respect to a foreign corporation, the denominator
 24 does not include the average value of real or tangible personal property
 25 owned or rented and used in a place that is outside the United States.
 26 Property owned by the taxpayer is valued at its original cost. Property
 27 rented by the taxpayer is valued at eight (8) times the net annual rental
 28 rate. Net annual rental rate is the annual rental rate paid by the taxpayer
 29 less any annual rental rate received by the taxpayer from subrentals.
 30 The average of property shall be determined by averaging the values at
 31 the beginning and ending of the taxable year; but the department may
 32 require the averaging of monthly values during the taxable year if
 33 reasonably required to reflect properly the average value of the
 34 taxpayer's property.

35 (d) The payroll factor is a fraction; the numerator of which is the
 36 total amount paid in this state during the taxable year by the taxpayer
 37 for compensation; and the denominator of which is the total
 38 compensation paid everywhere during the taxable year. However, with
 39 respect to a foreign corporation, the denominator does not include
 40 compensation paid in a place that is outside the United States.
 41 Compensation is paid in this state if:

- 42 (1) the individual's service is performed entirely within the state;
- 43 (2) the individual's service is performed both within and without
- 44 this state; but the service performed without this state is incidental
- 45 to the individual's service within this state; or
- 46 (3) some of the service is performed in this state and:

~~(A)~~ the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in this state; or

~~(B)~~ the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed; but the individual is a resident of this state.

~~(e)~~ **(c)** The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the taxable year, and the denominator of which is the total sales of the taxpayer everywhere during the taxable year. Sales include receipts from intangible property and receipts from the sale or exchange of intangible property. However, with respect to a foreign corporation, the denominator does not include sales made in a place that is outside the United States. Receipts from intangible personal property are derived from sources within Indiana if the receipts from the intangible personal property are attributable to Indiana under section 2.2 of this chapter. Sales of tangible personal property are in this state if:

(1) the property is delivered or shipped to a purchaser, other than the United States government, within this state, regardless of the f.o.b. point or other conditions of the sale; or

(2) the property is shipped from an office, a store, a warehouse, a factory, or other place of storage in this state and:

(A) the purchaser is the United States government; or

(B) the taxpayer is not taxable in the state of the purchaser.

Gross receipts derived from commercial printing as described in IC 6-2.5-1-10 shall be treated as sales of tangible personal property for purposes of this chapter.

~~(f)~~ **(d)** Sales, other than receipts from intangible property covered by subsection ~~(e)~~ **(c)** and sales of tangible personal property, are in this state if:

(1) the income-producing activity is performed in this state; or

(2) the income-producing activity is performed both within and without this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

~~(g)~~ **(e)** Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in subsections ~~(h)~~ **(f)** through ~~(k)~~ **(i)**.

~~(h)~~**(f)** **(1)** Net rents and royalties from real property located in this state are allocable to this state.

(2) Net rents and royalties from tangible personal property are allocated to this state:

(i) if and to the extent that the property is utilized in this state; or

(ii) in their entirety if the taxpayer's commercial domicile is in this

1 state and the taxpayer is not organized under the laws of or
2 taxable in the state in which the property is utilized.

3 (3) The extent of utilization of tangible personal property in a state
4 is determined by multiplying the rents and royalties by a fraction, the
5 numerator of which is the number of days of physical location of the
6 property in the state during the rental or royalty period in the taxable
7 year, and the denominator of which is the number of days of physical
8 location of the property everywhere during all rental or royalty periods
9 in the taxable year. If the physical location of the property during the
10 rental or royalty period is unknown or unascertainable by the taxpayer,
11 tangible personal property is utilized in the state in which the property
12 was located at the time the rental or royalty payer obtained possession.

13 ~~(f)(1)~~ **(g)(1)** Capital gains and losses from sales of real property
14 located in this state are allocable to this state.

15 (2) Capital gains and losses from sales of tangible personal property
16 are allocable to this state if:

- 17 (i) the property had a situs in this state at the time of the sale; or
- 18 (ii) the taxpayer's commercial domicile is in this state and the
19 taxpayer is not taxable in the state in which the property had a
20 situs.

21 (3) Capital gains and losses from sales of intangible personal
22 property are allocable to this state if the taxpayer's commercial
23 domicile is in this state.

24 ~~(g)~~ **(h)** Interest and dividends are allocable to this state if the
25 taxpayer's commercial domicile is in this state.

26 ~~(k)(1)~~ **(i)(1)** Patent and copyright royalties are allocable to this state:

- 27 (i) if and to the extent that the patent or copyright is utilized by
28 the taxpayer in this state; or
- 29 (ii) if and to the extent that the patent or copyright is utilized
30 by the taxpayer in a state in which the taxpayer is not taxable
31 and the taxpayer's commercial domicile is in this state.

32 (2) A patent is utilized in a state to the extent that it is employed
33 in production, fabrication, manufacturing, or other processing in
34 the state or to the extent that a patented product is produced in the
35 state. If the basis of receipts from patent royalties does not permit
36 allocation to states or if the accounting procedures do not reflect
37 states of utilization, the patent is utilized in the state in which the
38 taxpayer's commercial domicile is located.

39 (3) A copyright is utilized in a state to the extent that printing or
40 other publication originates in the state. If the basis of receipts
41 from copyright royalties does not permit allocation to states or if
42 the accounting procedures do not reflect states of utilization, the
43 copyright is utilized in the state in which the taxpayer's
44 commercial domicile is located.

45 ~~(h)~~ **(j)** If the allocation and apportionment provisions of this article
46 do not fairly represent the taxpayer's income derived from sources

1 within the state of Indiana, the taxpayer may petition for or the
 2 department may require, in respect to all or any part of the taxpayer's
 3 business activity, if reasonable:

4 (1) separate accounting;

5 ~~(2) the exclusion of any one (1) or more of the factors;~~

6 ~~(3) (2)~~ the inclusion of one (1) or more additional factors which
 7 will fairly represent the taxpayer's income derived from sources
 8 within the state of Indiana; or

9 ~~(4) (3)~~ the employment of any other method to effectuate an
 10 equitable allocation and apportionment of the taxpayer's income.

11 ~~(m)~~ **(k)** In the case of two (2) or more organizations, trades, or
 12 businesses owned or controlled directly or indirectly by the same
 13 interests, the department shall distribute, apportion, or allocate the
 14 income derived from sources within the state of Indiana between and
 15 among those organizations, trades, or businesses in order to fairly
 16 reflect and report the income derived from sources within the state of
 17 Indiana by various taxpayers.

18 ~~(n)~~ **(l)** For purposes of allocation and apportionment of income
 19 under this article, a taxpayer is taxable in another state if:

20 (1) in that state the taxpayer is subject to a net income tax, a
 21 franchise tax measured by net income, a franchise tax for the
 22 privilege of doing business, or a corporate stock tax; or

23 (2) that state has jurisdiction to subject the taxpayer to a net
 24 income tax regardless of whether, in fact, the state does or does
 25 not.

26 ~~(o)~~ **(m)** Notwithstanding subsections ~~(j)~~ **(j)** and ~~(m)~~ **(k)**, the
 27 department may not, under any circumstances, require that income,
 28 deductions, and credits attributable to a taxpayer and another entity be
 29 reported in a combined income tax return for any taxable year, if the
 30 other entity is:

31 (1) a foreign corporation; or

32 (2) a corporation that is classified as a foreign operating
 33 corporation for the taxable year by section 2.4 of this chapter.

34 ~~(p)~~ **(n)** Notwithstanding subsections ~~(j)~~ **(j)** and ~~(m)~~ **(k)**, the
 35 department may not require that income, deductions, and credits
 36 attributable to a taxpayer and another entity not described in subsection
 37 ~~(o)(1)~~ **(m)(1)** or ~~(o)(2)~~ **(m)(2)** be reported in a combined income tax
 38 return for any taxable year, unless the department is unable to fairly
 39 reflect the taxpayer's adjusted gross income for the taxable year through
 40 use of other powers granted to the department by subsections ~~(j)~~ **(j)** and
 41 ~~(m)~~ **(k)**.

42 ~~(q)~~ **(o)** Notwithstanding subsections ~~(m)~~ **(m)** and ~~(p)~~ **(n)**, one (1) or
 43 more taxpayers may petition the department under subsection ~~(j)~~ **(j)** for
 44 permission to file a combined income tax return for a taxable year. The
 45 petition to file a combined income tax return must be completed and
 46 filed with the department not more than thirty (30) days after the end

1 of the taxpayer's taxable year.

2 ~~(r)~~ **(p)** This subsection applies to a corporation that is a life
3 insurance company (as defined in Section 816(a) of the Internal
4 Revenue Code) or an insurance company that is subject to tax under
5 Section 831 of the Internal Revenue Code. The corporation's adjusted
6 gross income that is derived from sources within Indiana is determined
7 by multiplying the corporation's adjusted gross income by a fraction:

8 (1) the numerator of which is the direct premiums and annuity
9 considerations received during the taxable year for insurance
10 upon property or risks in the state; and

11 (2) the denominator of which is the direct premiums and annuity
12 considerations received during the taxable year for insurance
13 upon property or risks everywhere.

14 The term "direct premiums and annuity considerations" means the
15 gross premiums received from direct business as reported in the
16 corporation's annual statement filed with the department of insurance.

17 SECTION 71. IC 6-3-2-2.4 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 2.4. (a) For
19 purposes of section ~~2(e)~~ **2(m)** of this chapter, a corporation is a foreign
20 operating corporation for a particular taxable year if it has eighty
21 percent (80%) or more of its total business activity occurring outside
22 the United States during the taxable year.

23 (b) For purposes of determining the amount of a corporation's
24 business activity that occurs within the United States, the department
25 shall determine the sum of that corporation's United States property
26 factor and its United States payroll factor and divide that sum by two
27 (2). If the quotient exceeds two-tenths (0.2), then less than eighty
28 percent (80%) of the corporation's business shall be considered to have
29 occurred outside the United States. If the quotient equals or is less than
30 two-tenths (0.2), then eighty percent (80%) or more of the corporation's
31 business shall be considered to have occurred outside the United
32 States. If a corporation's United States property factor or its United
33 States payroll factor has a denominator of zero (0), then the sum of the
34 two (2) factors shall be divided by one (1) and not by two (2).

35 (c) The United States property factor of a corporation is a fraction.
36 The numerator of the fraction is the average value of the corporation's
37 real and tangible personal property owned or rented and used in the
38 United States during the taxable year, and the denominator of the
39 fraction is the average value of all the corporation's real and tangible
40 personal property owned or rented and used anywhere in the world
41 during the taxable year. Property owned by the corporation shall be
42 valued at its original cost. Property rented by the corporation shall be
43 valued at eight (8) times the net annual rental rate. The corporation's
44 net annual rental rate is the annual rental rate paid by the corporation
45 less any annual rental rate received by the corporation from subrentals.
46 The average value of property shall be determined by averaging the

values at the beginning and ending of the taxable year, but the department may require the averaging of monthly values during the taxable year if reasonably required to reflect properly the average value of the corporation's property.

(d) The United States payroll factor of a corporation is a fraction. The numerator of the fraction is the total compensation to individuals paid in the United States during the taxable year by the corporation, and the denominator of the fraction is the total compensation to individuals paid anywhere in the world during the taxable year by the corporation. Compensation to an individual is paid in the United States if:

(1) the individual's service is performed entirely within the United States;

(2) the individual's service is performed both within and outside the United States, but the service performed outside the United States is incidental to the individual's service within the United States; or

(3) the individual is a resident of the United States, some of the service is performed in the United States, and:

(A) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the United States; or

(B) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is not in a jurisdiction that is outside the United States and that is where some part of the service is performed.

SECTION 72. IC 6-3.1-4-6, AS AMENDED BY P.L.192-2002(ss), SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. ~~Notwithstanding the other provisions of this chapter, a taxpayer is not entitled to a credit for Indiana qualified research expense incurred after December 31, 2004.~~ Notwithstanding Section 41 of the Internal Revenue Code, the termination date in Section 41(h) of the Internal Revenue Code does not apply to a taxpayer who is eligible for the credit under this chapter for the taxable year in which the Indiana qualified research expense is incurred.

SECTION 73. IC 6-3.1-13-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) The economic development for a growing economy board is established. The board consists of the following seven (7) members:

(1) The director or, upon the director's designation, the executive director of the department of commerce.

(2) The director of the budget agency.

(3) The commissioner of the department of state revenue.

(4) Four (4) members appointed by the governor, not more than two (2) of whom may be members of the same political party.

(b) The director shall serve as chairperson of the board. Four (4)

1 members of the board constitute a quorum to transact and vote on the
2 business of the board.

3 (c) The department of commerce shall assist the board in carrying
4 out the board's duties under this chapter **and IC 6-3.1-25.**

5 SECTION 74. IC 6-3.1-13-15.5, AS ADDED BY P.L.178-2002,
6 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2003]: Sec. 15.5. This section applies to an application
8 proposing to retain existing jobs in Indiana. After receipt of an
9 application, the board may enter into an agreement with the applicant
10 for a credit under this chapter if the board determines that all the
11 following conditions exist:

12 (1) The applicant's project will retain existing jobs performed by
13 the employees of the applicant in Indiana.

14 (2) The applicant provides evidence that there is at least one (1)
15 other competing site outside Indiana that is being considered for
16 the project or for the relocation of jobs.

17 (3) A disparity is identified, using the best available data, in the
18 projected costs for the applicant's project in Indiana compared
19 with the costs for the project in the competing site.

20 (4) The applicant is engaged in research and development,
21 manufacturing, or business services (as defined in the Standard
22 Industrial Classification Manual of the United States Office of
23 Management and Budget).

24 (5) The average compensation (including benefits) provided to the
25 applicant's employees during the applicant's previous fiscal year
26 exceeds the ~~average compensation paid during that same period~~
27 ~~to all employees in the county in which the applicant's business is~~
28 ~~located by at least five percent (5%); lesser of:~~

29 (A) **the average county wage in the county where the**
30 **project for which the credit under this chapter is granted**
31 **will be located; or**

32 (B) **the average wage in the state;**
33 **during the same period, as determined by the department of**
34 **commerce.**

35 (6) The applicant employs at least ~~two hundred (200)~~
36 **seventy-five (75)** employees in Indiana.

37 (7) The applicant has prepared a plan for the use of the credits
38 under this chapter for:

39 (A) investment in facility improvements or equipment and
40 machinery upgrades, repairs, or retrofits; or

41 (B) other direct business related investments, including but not
42 limited to training.

43 (8) Receiving the tax credit is a major factor in the applicant's
44 decision to go forward with the project, and not receiving the tax
45 credit will increase the likelihood of the applicant reducing jobs
46 in Indiana.

(9) Awarding the tax credit will result in an overall positive fiscal impact to the state, as certified by the budget agency using the best available data.

(10) The applicant's business and project are economically sound and will benefit the people of Indiana by increasing or maintaining opportunities for employment and strengthening the economy of Indiana.

(11) The communities affected by the potential reduction in jobs or relocation of jobs to another site outside Indiana have committed at least one dollar ~~and fifty cents (\$1.50)~~ **(\$1)** of local incentives with respect to the retention of jobs for every ~~three~~ **two** dollars ~~(\$3)~~ **(\$2)** in credits provided under this chapter. For purposes of this subdivision, local incentives include, but are not limited to, cash grants, tax abatements, infrastructure improvements, investment in facility rehabilitation, construction, and training investments.

(12) The credit is not prohibited by section 16 of this chapter.

SECTION 75. IC 6-3.1-13-17, AS AMENDED BY P.L.178-2002, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. In determining the credit amount that should be awarded to an applicant under section 15 of this chapter that proposes a project to create jobs in Indiana, the board shall take into consideration the following factors:

(1) The economy of the county where the projected investment is to occur.

(2) The potential impact on the economy of Indiana.

(3) The incremental payroll attributable to the project.

(4) The capital investment attributable to the project.

(5) The ~~amount the~~ average wage paid by the applicant. ~~exceeds the average wage paid within the county in which the project will be located.~~

(6) The costs to Indiana and the affected political subdivisions with respect to the project.

(7) The financial assistance that is otherwise provided by Indiana and the affected political subdivisions.

As appropriate, the board shall consider the factors in this section to determine the credit amount awarded to an applicant for a project to retain existing jobs in Indiana under section 15.5 of this chapter. In the case of an applicant under section 15.5 of this chapter, the board shall consider the magnitude of the cost differential between the projected costs for the applicant's project in the competing site outside Indiana and the projected costs for the applicant's project in Indiana.

SECTION 76. IC 6-3.1-13-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. (a) The economic development for a growing economy fund is established to be used exclusively for the purposes of this chapter **and IC 6-3.1-25**, including

1 paying for the costs of administering this chapter **and IC 6-3.1-25**. The
 2 fund shall be administered by the department of commerce.

3 (b) The fund consists of collected fees, appropriations from the
 4 general assembly, and gifts and grants to the fund.

5 (c) The treasurer of state shall invest the money in the fund not
 6 currently needed to meet the obligations of the fund in the same
 7 manner as other public funds may be invested. Interest that accrues
 8 from these investments shall be deposited in the fund.

9 (d) The money in the fund at the end of a state fiscal year does not
 10 revert to the state general fund but remains in the fund to be used
 11 exclusively for the purposes of this chapter. Expenditures from the fund
 12 are subject to appropriation by the general assembly and approval by
 13 the budget agency.

14 SECTION 77. IC 6-3.1-24-3, AS ADDED BY P.L.192-2002(ss),
 15 SECTION 119, IS AMENDED TO READ AS FOLLOWS
 16 [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: Sec. 3. As used
 17 in this chapter, "qualified investment capital" means debt or equity
 18 capital that is provided to a qualified Indiana business after December
 19 31, ~~2003~~. **2002**.

20 SECTION 78. IC 6-3.1-24-9, AS ADDED BY P.L.192-2002(ss),
 21 SECTION 119, IS AMENDED TO READ AS FOLLOWS
 22 [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: Sec. 9. ~~(a)~~ The
 23 total amount of tax credits that may be allowed under this chapter in a
 24 particular calendar year may not exceed ten million dollars
 25 (\$10,000,000).

26 ~~(b) Notwithstanding the other provisions of this chapter, a taxpayer~~
 27 ~~is not entitled to a credit for providing qualified investment capital to~~
 28 ~~a qualified Indiana business after December 31, 2008.~~

29 SECTION 79. IC 6-3.1-25 IS ADDED TO THE INDIANA CODE
 30 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2003]:

32 **Chapter 25. Hoosier Homefield Advantage Investment Tax**
 33 **Credit**

34 **Sec. 1. As used in this chapter, "base state tax liability" means**
 35 **a taxpayer's state tax liability in the taxable year immediately**
 36 **preceding the taxable year in which a taxpayer makes a qualified**
 37 **investment.**

38 **Sec. 2. As used in this chapter, "board" has the meaning set**
 39 **forth in IC 6-3.1-13-1.**

40 **Sec. 3. As used in this chapter, "director" has the meaning set**
 41 **forth in IC 6-3.1-13-3.**

42 **Sec. 4. As used in this chapter, "full-time employee" has the**
 43 **meaning set forth in IC 6-3.1-13-4.**

44 **Sec. 5. As used in this chapter, "highly compensated employee"**
 45 **has the meaning set forth in Section 414(q) of the Internal Revenue**
 46 **Code.**

1 Sec. 6. As used in this chapter, "new employee" has the meaning
2 set forth in IC 6-3.1-13-6.

3 Sec. 7. As used in this chapter, "pass through entity" means a:

- 4 (1) corporation that is exempt from the adjusted gross income
- 5 tax under IC 6-3-2-2.8(2);
- 6 (2) partnership;
- 7 (3) trust;
- 8 (4) limited liability company; or
- 9 (5) limited liability partnership.

10 Sec. 8. (a) As used in this chapter, "qualified investment" means
11 the amount of the taxpayer's expenditures for:

- 12 (1) the purchase of new telecommunications, production,
- 13 manufacturing, fabrication, assembly, extraction, mining,
- 14 processing, refining, or finishing equipment;
- 15 (2) the purchase of new computers and related equipment;
- 16 (3) costs associated with the modernization of existing
- 17 telecommunications, production, manufacturing, fabrication,
- 18 assembly, extraction, mining, processing, refining, or finishing
- 19 facilities;
- 20 (4) onsite infrastructure improvements;
- 21 (5) the construction of new telecommunications, production,
- 22 manufacturing, fabrication, assembly, extraction, mining,
- 23 processing, refining, or finishing facilities;
- 24 (6) costs associated with retooling existing machinery and
- 25 equipment; and
- 26 (7) costs associated with the construction of special purpose
- 27 buildings and foundations for use in the computer, software,
- 28 biological sciences, or telecommunications industry;

29 that are certified by the board under this chapter as being eligible
30 for the credit under this chapter.

31 (b) The term does not include property that can be readily
32 moved outside Indiana.

33 Sec. 9. As used in this chapter, "state tax liability" means a
34 taxpayer's total tax liability that is incurred under:

- 35 (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- 36 (2) IC 27-1-18-2 (the insurance premiums tax); and
- 37 (3) IC 6-5.5 (the financial institutions tax);

38 as computed after the application of the credits that under
39 IC 6-3.1-1-2 are to be applied before the credit provided by this
40 chapter.

41 Sec. 10. As used in this chapter, "state tax liability growth"
42 means the difference between a taxpayer's state tax liability in a
43 taxable year minus the greater of:

- 44 (1) the taxpayer's state tax liability in the most recent prior
- 45 taxable year in which the taxpayer claimed part of a credit
- 46 under this chapter; or
- 47 (2) the taxpayer's base state tax liability;

before the application of a credit under this chapter.

Sec. 11. As used in this chapter, "taxpayer" means an individual, a corporation, a partnership, or other entity that has state tax liability.

Sec. 12. The board may make credit awards under this chapter to foster job creation and higher wages in Indiana.

Sec. 13. A taxpayer that:

(1) is awarded a tax credit under this chapter by the board; and

(2) complies with the conditions set forth in this chapter and the agreement entered into by the board and the taxpayer under this chapter;

is entitled to a credit against the taxpayer's state tax liability in a taxable year.

Sec. 14. (a) The total amount of a tax credit claimed under this chapter equals thirty percent (30%) of the amount of a qualified investment made by the taxpayer in Indiana.

(b) In the taxable year in which a taxpayer makes a qualified investment, the taxpayer may claim a credit under this chapter in an amount equal to the lesser of:

(1) thirty percent (30%) of the amount of the qualified investment; or

(2) the taxpayer's state tax liability growth.

The taxpayer may carry forward any remainder.

Sec. 15. (a) A taxpayer may carry forward a remainder for not more than nine (9) consecutive taxable years beginning with the taxable year after the taxable year in which the taxpayer makes the qualified investment.

(b) The amount that a taxpayer may carry forward to a particular taxable year under this section equals the lesser of the following:

(1) The taxpayer's state tax liability growth.

(2) The unused part of a credit allowed under this chapter.

(c) A taxpayer may:

(1) claim a tax credit under this chapter for a qualified investment; and

(2) carry forward a remainder for one (1) or more different qualified investments;

in the same taxable year.

(d) The total amount of each tax credit claimed under this chapter may not exceed thirty percent (30%) of the qualified investment for which the tax credit is claimed.

Sec. 16. If a pass through entity does not have state tax liability growth against which the tax credit may be applied, a shareholder or partner of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for

1 the taxable year; multiplied by

2 (2) the percentage of the pass through entity's distributive
3 income to which the shareholder or partner is entitled.

4 **Sec. 17.** A person that proposes a project to create new jobs or
5 increase wage levels in Indiana may apply to the board before the
6 taxpayer makes the qualified investment to enter into an
7 agreement for a tax credit under this chapter. The director shall
8 prescribe the form of the application.

9 **Sec. 18.** After receipt of an application, the board may enter into
10 an agreement with the applicant for a credit under this chapter if
11 the board determines that all the following conditions exist:

12 (1) The applicant has conducted business in Indiana for at
13 least one (1) year immediately preceding the date the
14 application is received.

15 (2) The applicant's project will raise the total earnings of
16 employees of the applicant in Indiana.

17 (3) The applicant's project is economically sound and will
18 benefit the people of Indiana by increasing opportunities for
19 employment and strengthening the economy of Indiana.

20 (4) Receiving the tax credit is a major factor in the applicant's
21 decision to go forward with the project and not receiving the
22 tax credit will result in the applicant not raising the total
23 earnings of employees in Indiana.

24 (5) Awarding the tax credit will result in an overall positive
25 fiscal impact to the state, as certified by the budget agency
26 using the best available data.

27 (6) The credit is not prohibited by section 19 of this chapter.

28 (7) The average wage that will be paid by the taxpayer to its
29 employees (excluding highly compensated employees) at the
30 location after the credit is given will be at least equal to one
31 hundred fifty percent (150%) of the hourly minimum wage
32 under IC 22-2-2-4 or its equivalent.

33 **Sec. 19.** A person is not entitled to claim the credit provided by
34 this chapter for any jobs that the person relocates from one (1) site
35 in Indiana to another site in Indiana. Determinations under this
36 section shall be made by the board.

37 **Sec. 20.** The board shall certify the amount of the qualified
38 investment that is eligible for a credit under this chapter. In
39 determining the credit amount that should be awarded, the board
40 shall grant a credit only for the amount of the qualified investment
41 that is directly related to expanding the workforce in Indiana.

42 **Sec. 21.** The board shall enter into an agreement with an
43 applicant that is awarded a credit under this chapter. The
44 agreement must include all the following:

45 (1) A detailed description of the project that is the subject of
46 the agreement.

47 (2) The first taxable year for which the credit may be claimed.

(3) The amount of the taxpayer's state tax liability for each tax in the taxable year of the taxpayer that immediately preceded the first taxable year in which the credit may be claimed.

(4) The maximum tax credit amount that will be allowed for each taxable year.

(5) A requirement that the taxpayer shall maintain operations at the project location for at least ten (10) years during the term that the tax credit is available.

(6) A specific method for determining the number of new employees employed during a taxable year who are performing jobs not previously performed by an employee.

(7) A requirement that the taxpayer shall annually report to the board the number of new employees who are performing jobs not previously performed by an employee, the average wage of the new employees, the average wage of all employees at the location where the qualified investment is made, and any other information the director needs to perform the director's duties under this chapter.

(8) A requirement that the director is authorized to verify with the appropriate state agencies the amounts reported under subdivision (7), and that after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified.

(9) A requirement that the taxpayer shall pay an average wage to all its employees other than highly compensated employees in each taxable year that a tax credit is available that equals at least one hundred fifty percent (150%) of the hourly minimum wage under IC 22-2-2-4 or its equivalent.

(10) A requirement that the taxpayer will keep the qualified investment property that is the basis for the tax credit in Indiana for at least the lesser of its useful life for federal income tax purposes or ten (10) years.

(11) A requirement that the taxpayer will maintain at the location where the qualified investment is made during the term of the tax credit a total payroll that is at least equal to the payroll level that existed before the qualified investment was made.

(12) A requirement that the taxpayer shall provide written notification to the director and the board not more than thirty (30) days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer.

(13) Any other performance conditions that the board determines are appropriate.

Sec. 22. A taxpayer claiming a credit under this chapter shall submit to the department of state revenue a copy of the director's

1 certificate of verification under this chapter for the taxable year.
 2 However, failure to submit a copy of the certificate does not
 3 invalidate a claim for a credit.

4 Sec. 23. If the director determines that a taxpayer who has
 5 received a credit under this chapter is not complying with the
 6 requirements of the tax credit agreement or all the provisions of
 7 this chapter, the director shall, after giving the taxpayer an
 8 opportunity to explain the noncompliance, notify the department
 9 of commerce and the department of state revenue of the
 10 noncompliance and request an assessment. The department of state
 11 revenue, with the assistance of the director, shall state the amount
 12 of the assessment, which may not exceed the sum of any previously
 13 allowed credits under this chapter. After receiving the notice, the
 14 department of state revenue shall make an assessment against the
 15 taxpayer under IC 6-8.1.

16 Sec. 24. On or before March 31 each year, the director shall
 17 submit a report to the board on the tax credit program under this
 18 chapter. The report must include information on the number of
 19 agreements that were entered into under this chapter during the
 20 preceding calendar year, a description of the project that is the
 21 subject of each agreement, an update on the status of projects
 22 under agreements entered into before the preceding calendar year,
 23 and the sum of the credits awarded under this chapter. A copy of
 24 the report shall be delivered to the executive director of the
 25 legislative services agency for distribution to the members of the
 26 general assembly.

27 Sec. 25. On a biennial basis, the board shall provide for an
 28 evaluation of the tax credit program, giving first priority to using
 29 the Indiana economic development council established under
 30 IC 4-3-14. The evaluation must include an assessment of the
 31 effectiveness of the program in creating new jobs and increasing
 32 wages in Indiana and of the revenue impact of the program and
 33 may include a review of the practices and experiences of other
 34 states with similar programs. The director shall submit a report on
 35 the evaluation to the governor, the president pro tempore of the
 36 senate, and the speaker of the house of representatives after June
 37 30 and before November 1 in each odd-numbered year.

38 SECTION 80. IC 6-3.1-26 IS ADDED TO THE INDIANA CODE
 39 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 40 JANUARY 1, 2004]:

41 **Chapter 26. Certified Job Skills Training Program Employer**
 42 **Credit**

43 Sec. 1. As used in this chapter, "certified job skills training
 44 program" means a job skills training program certified by the
 45 department of workforce development under IC 22-4.1-7.

46 Sec. 2. As used in this chapter, "highly compensated employee"
 47 has the meaning set forth in Section 414(q) of the Internal Revenue

1 Code.

2 Sec. 3. As used in this chapter, "pass through entity" means:
 3 (1) a corporation that is exempt from the adjusted gross
 4 income tax under IC 6-3-2-2.8(2);
 5 (2) a partnership;
 6 (3) a limited liability company; or
 7 (4) a limited liability partnership.

8 Sec. 4. As used in this chapter, "qualified employer" means a
 9 person, corporation, or pass through entity that pays an average
 10 hourly wage to employees other than highly compensated
 11 employees that exceeds one hundred fifty percent (150%) of the
 12 federal minimum wage.

13 Sec. 5. As used in this chapter, "state tax liability" means a
 14 taxpayer's total tax liability that is incurred under:
 15 (1) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax);
 16 (2) IC 6-5.5 (financial institutions tax); and
 17 (3) IC 27-1-18-2 (insurance premiums tax);
 18 as computed after the application of the credits that under
 19 IC 6-3.1-1-2 are to be applied before the credit provided by this
 20 chapter.

21 Sec. 6. As used in this chapter, "training program expenditures"
 22 means expenses incurred by a qualified employer for any of the
 23 following:
 24 (1) Sponsoring or co-sponsoring a certified job skills training
 25 program that it provides to its employees, to the extent the
 26 expenses are incurred in providing the training to its
 27 employees and not to other program participants.
 28 (2) Reimbursing an employee for participation in a certified
 29 job skills training program not sponsored or co-sponsored by
 30 the qualified employer.

31 The term does not include indirect costs incurred by an employer
 32 such as wages, salaries, and fringe benefits paid to employees while
 33 attending a certified job skills training program.

34 Sec. 7. A qualified employer is entitled to a credit against the
 35 qualified employer's state tax liability for training program
 36 expenditures made by the qualified employer in a taxable year. The
 37 amount of the credit is equal to the qualified employer's training
 38 program expenditures in the taxable year multiplied by ten percent
 39 (10%).

40 Sec. 8. (a) If the amount determined under section 7 of this
 41 chapter for a qualified employer in a taxable year exceeds the
 42 qualified employer's state tax liability for that taxable year, the
 43 qualified employer may carry the excess over to the following
 44 taxable years. The amount of the credit carryover from a taxable
 45 year shall be reduced to the extent that the carryover is used by the
 46 qualified employer to obtain a credit under this chapter for any
 47 subsequent taxable year. A qualified employer is not entitled to a

1 carryback.

2 (b) A qualified employer is not entitled to a refund of any
3 unused credit.

4 Sec. 9. If a qualified employer is a pass through entity that does
5 not have state income tax liability against which the tax credit may
6 be applied, a shareholder, partner, beneficiary, or member of the
7 pass through entity is entitled to a tax credit equal to:

8 (1) the tax credit determined for the pass through entity for
9 the taxable year; multiplied by

10 (2) the percentage of the pass through entity's distributive
11 income to which the shareholder, partner, beneficiary, or
12 member is entitled.

13 Sec. 10. To receive the credit provided by this chapter, a
14 qualified employer must claim the credit on the qualified
15 employer's state tax return in the manner prescribed by the
16 department. The qualified employer must submit to the
17 department proof of payment of the training program
18 expenditures, proof that the expenditures were for job skills
19 training programs certified by the department of workforce
20 development under IC 22-4.1-7, and all information that the
21 department determines is necessary for the calculation of the credit
22 provided by this chapter.

23 SECTION 81. IC 6-3.1-27 IS ADDED TO THE INDIANA CODE
24 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
25 JANUARY 1, 2004]:

26 Chapter 27. Certified Job Skills Training Program Individual
27 Credit

28 Sec. 1. As used in this chapter, "certified job skills training
29 program" means a job skills training program certified by the
30 department of workforce development under IC 22-4.1-7.

31 Sec. 2. As used in this chapter, "state tax liability" means a
32 taxpayer's total tax liability incurred under IC 6-3-1 through
33 IC 6-3-7 (the adjusted gross income tax) as computed after the
34 application of all credits that under IC 6-3.1-1-2 are to be applied
35 before the credit provided by this chapter.

36 Sec. 3. As used in this chapter, "taxpayer" means any individual
37 that has any state tax liability.

38 Sec. 4. As used in this chapter, "training program expenditures"
39 means expenses incurred by the taxpayer for fees or tuition that
40 are:

41 (1) paid by the taxpayer for participation in a certified job
42 skills training program that relates to the taxpayer's career
43 field or job classification, as determined by the department of
44 workforce development under rules adopted under
45 IC 22-4.1-7-4(a)(2); and

46 (2) not reimbursed or otherwise covered by the taxpayer's
47 employer.

1 **Sec. 5. A taxpayer is entitled to a credit against the taxpayer's**
 2 **state tax liability for training program expenditures made by the**
 3 **taxpayer in a taxable year. The amount of the credit is equal to the**
 4 **lesser of:**

- 5 (1) the taxpayer's training program expenditures in the
 6 taxable year multiplied by twenty-five percent (25%); or
 7 (2) two hundred fifty dollars (\$250).

8 **If a husband and wife file a joint income tax return and each**
 9 **spouse is eligible for the credit during a taxable year, the amount**
 10 **of the credit that may be claimed on the joint return is equal to the**
 11 **amount of the credit the husband is entitled to under this**
 12 **subsection plus the amount of the credit the wife is entitled to**
 13 **under this subsection.**

14 **Sec. 6. (a) If the amount determined under section 5 of this**
 15 **chapter for a taxpayer in a taxable year exceeds the taxpayer's**
 16 **state tax liability for that taxable year, the taxpayer may carry the**
 17 **excess over to the following taxable years. The amount of the credit**
 18 **carryover from a taxable year shall be reduced to the extent that**
 19 **the carryover is used by the taxpayer to obtain a credit under this**
 20 **chapter for any subsequent taxable year. A taxpayer is not entitled**
 21 **to a carryback.**

22 (b) A taxpayer is entitled to a refund of any unused credit.

23 **Sec. 7. To receive the credit provided by this chapter, a taxpayer**
 24 **must claim the credit on the taxpayer's state tax return in the**
 25 **manner prescribed by the department. The taxpayer must submit**
 26 **to the department:**

- 27 (1) proof of payment of the training program expenditures;
 28 (2) proof that the expenditures were for job skills training
 29 programs:
 30 (A) certified by the department of workforce development
 31 under IC 22-4.1-7; and
 32 (B) related to the taxpayer's career field or job
 33 classification, as determined by the department of
 34 workforce development under rules adopted under
 35 IC 22-4.1-7; and
 36 (3) all information that the department determines is
 37 necessary for the calculation of the credit provided by this
 38 chapter.

39 **SECTION 82. IC 6-3.1-28 IS ADDED TO THE INDIANA CODE**
 40 **AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE**
 41 **JANUARY 1, 2004]:**

42 **Chapter 28. Headquarters Relocation Tax Credit**

43 **Sec. 1. As used in this chapter, "corporate headquarters" means**
 44 **the building or buildings where:**

- 45 (1) the principal offices of the principal executive officers of
 46 an eligible business are located; and
 47 (2) at least two hundred fifty (250) employees are employed.

1 **Sec. 2. As used in this chapter, "eligible business" means a**
 2 **business that:**

- 3 (1) is engaged in either interstate or intrastate commerce;
- 4 (2) maintains a corporate headquarters in a state other than
- 5 Indiana as of January 1, 2004;
- 6 (3) had annual worldwide revenues of at least one billion
- 7 dollars (\$1,000,000,000) for the taxable year immediately
- 8 preceding the business's application for a tax credit under
- 9 section 12 of this chapter; and
- 10 (4) commits contractually to relocating its corporate
- 11 headquarters to Indiana.

12 **Sec. 3. As used in this chapter, "pass through entity" means:**

- 13 (1) a corporation that is exempt from the adjusted gross
- 14 income tax under IC 6-3-2-2.8(2);
- 15 (2) a partnership;
- 16 (3) a limited liability company; or
- 17 (4) a limited liability partnership.

18 **Sec. 4. As used in this chapter, "qualifying project" means the**
 19 **relocation of the corporate headquarters of an eligible business**
 20 **from a location outside Indiana to a location in Indiana.**

21 **Sec. 5. As used in this chapter, "relocation costs" means the**
 22 **reasonable and necessary expenses incurred by an eligible business**
 23 **for a qualifying project. The term includes:**

- 24 (1) moving costs and related expenses;
- 25 (2) the purchase of new or replacement equipment;
- 26 (3) capital investment costs; and
- 27 (4) property assembly and development costs, including:
 - 28 (A) the purchase, lease, or construction of buildings and
 - 29 land;
 - 30 (B) infrastructure improvements; and
 - 31 (C) site development costs.

32 **The term does not include any costs that do not directly result from**
 33 **the relocation of the business to a location in Indiana.**

34 **Sec. 6. As used in this chapter, "state tax liability" means a**
 35 **taxpayer's total tax liability that is incurred under:**

- 36 (1) IC 6-2.5 (state gross retail and use tax);
- 37 (2) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- 38 (3) IC 6-5.5 (the financial institutions tax); and
- 39 (4) IC 27-1-18-2 (the insurance premiums tax);

40 **as computed after the application of the credits that under**
 41 **IC 6-3.1-1-2 are to be applied before the credit provided by this**
 42 **chapter.**

43 **Sec. 7. As used in this chapter, "taxpayer" means an individual**
 44 **or entity that has any state tax liability.**

45 **Sec. 8. A taxpayer that:**

- 46 (1) is an eligible business;
- 47 (2) completes a qualifying project; and

(3) incurs relocation costs;
 is entitled to a credit against the person's state tax liability for the taxable year in which the relocation costs are incurred. The credit allowed under this section is equal to the amount determined under section 9 of this chapter.

Sec. 9. (a) Subject to subsection (b), the amount of the credit to which a taxpayer is entitled under section 8 of this chapter equals the product of:

(1) fifty percent (50%); multiplied by

(2) the amount of the taxpayer's relocation costs in the taxable year.

(b) The credit to which a taxpayer is entitled under section 8 of this chapter may not reduce the taxpayer's state tax liability below the amount of the taxpayer's state tax liability in the taxable year immediately preceding the taxable year in which the taxpayer first incurred relocation costs.

Sec. 10. If a pass through entity is entitled to a credit under section 8 of this chapter but does not have state tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

Sec. 11. (a) A credit allowed under section 8 of this chapter must be taken in ten (10) annual installments, beginning with the year in which the credit is granted. If the amount of an annual installment exceeds the taxpayer's state tax liability in a particular taxable year, the taxpayer may carry forward the amount of the excess to subsequent taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.

(b) The credit allowed under this chapter is not refundable.

Sec. 12. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department proof of the taxpayer's relocation costs and all information that the department determines is necessary for the calculation of the credit provided by this chapter.

Sec. 13. In determining whether an expense of the eligible business directly resulted from the relocation of the business, the department shall consider whether the expense would likely have been incurred by the eligible business if the business had not

1 **relocated from its original location."**

2 Page 113, between lines 29 and 30, begin a new paragraph and
3 insert:

4 "SECTION 84. IC 10-1-2-2 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) Authority is
6 granted to the department to establish and operate an actuarially sound
7 pension plan governed by a pension trust and to make the necessary
8 annual contribution in order to prevent any deterioration in the
9 actuarial status of the trust fund.

10 (b) Contributions shall be made to the trust fund by the department
11 and by each employee beneficiary through authorized monthly
12 deductions from wages.

13 (c) The trust fund may not be commingled with any other funds and
14 shall be invested only in accordance with Indiana laws for the
15 investment of trust funds, together with such other investments as are
16 specifically designated in the pension trust. Subject to the terms of the
17 pension trust, the trustee, with the approval of the department and the
18 pension advisory board, may establish investment guidelines and limits
19 on all types of investments (including, but not limited to, stocks and
20 bonds) and take other action necessary to fulfill its duty as a fiduciary
21 for the trust fund. However, the trustee shall invest the trust fund assets
22 with the same care, skill, prudence, and diligence that a prudent person
23 acting in a like capacity and familiar with such matters would use in the
24 conduct of an enterprise of a like character with like aims. The trustee
25 shall also diversify such investments in accordance with prudent
26 investment standards, **subject to the limitations and restrictions set**
27 **forth in IC 5-10.2-2-18.** The investment of trust funds is subject to
28 section 2.5 of this chapter.

29 (d) The trustee shall receive and hold as trustee for the uses and
30 purposes set forth in the pension trust any and all funds paid by the
31 department, the employee beneficiaries, or by any other person or
32 persons.

33 (e) The trustee shall engage pension consultants to supervise and
34 assist in the technical operation of the pension plan in order that there
35 may be no deterioration in the actuarial status of the plan.

36 (f) Before October 1 of each year, the trustee, with the aid of the
37 pension consultants, shall prepare and file a report with the department
38 and the state board of accounts. The report must include the following
39 with respect to the fiscal year ending on the preceding June 30:

40 SCHEDULE I. Receipts and disbursements.

41 SCHEDULE II. Assets of the pension trust, listing investments as
42 to book value and current market value at the end of the fiscal
43 year.

44 SCHEDULE III. List of terminations, showing cause and amount
45 of refund.

46 SCHEDULE IV. The application of actuarially computed "reserve

factors" to the payroll data, properly classified for the purpose of computing the reserve liability of the trust fund as of the end of the fiscal year.

SCHEDULE V. The application of actuarially computed "current liability factors" to the payroll data, properly classified for the purpose of computing the liability of the trust fund for the end of the fiscal year.

SCHEDULE VI. An actuarial computation of the pension liability for all employees retired before the close of the fiscal year.

(g) The minimum annual contribution by the department must be of sufficient amount, as determined by the pension consultants, to prevent any deterioration in the actuarial status of the pension plan during that year. If the department fails to make the minimum contribution for five (5) successive years, the pension trust terminates and the trust fund shall be liquidated.

(h) In the event of liquidation, all expenses of the pension trust shall be paid, adequate provision shall be made for continuing pension payments to retired persons, and each employee beneficiary shall receive the net amount paid into the trust fund from wages. Any remaining sum shall be equitably divided among employee beneficiaries in proportion to the net amount paid from their wages into the trust fund.

SECTION 85. IC 10-1-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. The mortality reserve account referred to in section 3 of this chapter, the disability reserve account referred to in section 4 of this chapter, and the dependent pension reserve account referred to in section 5 of this chapter may be commingled and operated as one (1) fund, known as the police benefit fund, under the terms of a supplementary trust agreement between the department and the trustee for the exclusive benefit of employee beneficiaries and their dependents. The trustee shall receive and hold as trustee for the uses and purposes set out in the supplementary trust agreement all funds paid to it as such trustee by the department or by any other person or persons. The trustee shall hold, invest, and reinvest the police benefit fund in such investments as it is permitted under the laws of Indiana to invest trust funds and such other investments as may be specifically designated in the supplementary trust agreement. **If the trustee decides to allocate part of the assets of the police benefit fund to alternative investments (as defined in IC 5-10.2-2-18), the trustee shall comply with the limitations and restrictions set forth in IC 5-10.2-2-18.** The trustee, with the assistance of the pension engineers, shall, within ninety (90) days after the close of the fiscal year, prepare and file with the department and the ~~Indiana insurance~~ department **of insurance** a detailed annual report showing receipts, disbursements, and case histories and making recommendations as to the necessary contributions required to keep the program in operation.

Contributions by the department to the police benefit fund shall be provided in the general appropriations to the department."

Page 129, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 116. IC 21-6.1-3-9, AS AMENDED BY P.L.1-2002, SECTION 88, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The board shall invest its assets with the care, skill, prudence, and diligence that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character with like aims. The board shall also diversify such investments in accordance with prudent investment standards, **subject to the limitations and restrictions set forth in IC 5-10.2-2-18.**

(b) The board may:

(1) make or have made investigations concerning investments;
and

(2) contract for and employ investment counsel to advise and assist in the purchase and sale of securities.

(c) The board is not subject to IC 4-13, IC 4-13.6, or IC 5-16 when managing real property as an investment. Any management agreements entered into by the board must ensure that the management agent acts in a prudent manner with regard to the purchase of goods and services. Contracts for the management of investment property shall be submitted to the governor, the attorney general, and the budget agency for approval. A contract for the management of real property as an investment:

(1) may not exceed a four (4) year term and must be based upon guidelines established by the board;

(2) may provide that the property manager may collect rent and make disbursements for routine operating expenses such as utilities, cleaning, maintenance, and minor tenant finish needs;

(3) shall establish, consistent with the board's duty under IC 30-4-3-3(c), guidelines for the prudent management of expenditures related to routine operation and capital improvements; and

(4) may provide specific guidelines for the board to purchase new properties, contract for the construction or repair of properties, and lease or sell properties without individual transactions requiring the approval of the governor, the attorney general, the Indiana department of administration, and the budget agency. However, each individual contract involving the purchase or sale of real property is subject to review and approval by the attorney general at the specific request of the attorney general.

(d) Whenever the board takes bids in managing or selling real property, the board shall require a bid submitted by a trust (as defined in IC 30-4-1-1(a)) to identify all of the following:

(1) Each beneficiary of the trust.

(2) Each settlor empowered to revoke or modify the trust.
 SECTION 117. IC 22-4.1-7 IS ADDED TO THE INDIANA CODE
 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 UPON PASSAGE]:

Chapter 7. Job Skills Training Program Certification

Sec. 1. As used in this chapter, "job skills training program" means a course or program designed to:

(1) develop, enhance, or upgrade basic workforce skills of an employee, including:

(A) literacy;

(B) communication skills;

(C) computational skills; or

(D) other transferable workforce skills; or

(2) develop, enhance, or upgrade advanced, specialized, or industry specific skills of an employee that are directly related to the employee's job or career.

Sec. 2. As used in this chapter, "person" means any individual, corporation, limited liability company, partnership, firm, association, public or private agency, educational institution, or other organization.

Sec. 3. As used in this chapter, "sponsor" means a person operating a job skills training program and in whose name the program is registered or approved.

Sec. 4. (a) The department shall adopt rules under IC 4-22-2 to establish standards for:

(1) certifying job skills training programs in Indiana, for purposes of allowing:

(A) employers to claim a credit against state tax liability under IC 6-3.1-26; and

(B) employees to claim a credit against state tax liability under IC 6-3.1-27; and

(2) certifying that a job skills training program is related to particular career fields or job classifications for purposes of allowing employees to claim a credit against state tax liability under IC 6-3.1-27.

(b) The rules adopted by the department under subsection (a) must require as a condition for certification under this chapter that a job skills training program be conducted under an organized, written plan that describes the following:

(1) The nature of the training, instruction, or other curricula to be provided to program participants.

(2) The career fields or job classifications to which the training relates, to allow the department to make the certification required under subsection (a)(2).

(3) The duration of the training.

(4) Any certification, license, or degree that a participant may earn through completion of the program and the specific

requirements for the certification, license, or degree.

(5) Any fees or tuition to be charged for the program.

(6) The sponsor's experience in conducting the program or other job skills training programs.

(c) The rules adopted by the commission under subsection (a) may include:

(1) a requirement that the sponsor of a job training program be certified by, accredited by, or otherwise in good standing with an appropriate accrediting body;

(2) minimum requirements, including the payment of any certification fees, for initial certification under this chapter after June 30, 2003;

(3) requirements for renewing a certification first issued under this chapter after June 30, 2003, including the payment of any renewal fees; or

(4) any other requirement that the department considers appropriate.

Sec. 5. The sponsor of a job skills training program who seeks certification under this chapter shall apply to the department for certification on forms prescribed by the department."

Page 134, between lines 43 and 44, begin a new paragraph and insert:

"SECTION 130. IC 36-8-6-6, AS AMENDED BY P.L.35-1999, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) The local board shall determine how much of the 1925 fund may be safely invested and how much should be retained for the needs of the fund. The investment shall be made:

(1) in interest bearing bonds of the United States, the state, or an Indiana municipal corporation. The bonds shall be deposited with and must remain in the custody of the treasurer of the board, who shall collect the interest due as it becomes due; or

(2) under IC 5-13-9.

(b) Investments under this section are subject to section 1.5 of this chapter.

(c) If the local board decides to allocate part of the assets of the 1925 fund to alternative investments (as defined in IC 5-10.2-2-18), the local board shall comply with the limitations and restrictions set forth in IC 5-10.2-2-18.

SECTION 131. IC 36-8-7-10, AS AMENDED BY P.L.35-1999, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) The local board shall determine how much of the 1937 fund may be safely invested and how much should be retained for the needs of the fund. Investments are restricted to the following:

(1) Interest bearing direct obligations of the United States or of the state or bonds lawfully issued by an Indiana political subdivision. The securities shall be deposited with and must

1 remain in the custody of the treasurer of the local board, who shall
2 collect the interest on them as it becomes due and payable.

3 (2) Savings deposits or certificates of deposit of a chartered
4 national, state, or mutual bank whose deposits are insured by a
5 federal agency. However, deposits may not be made in excess of
6 the amount of insurance protection afforded a member or investor
7 of the bank.

8 (3) Shares of a federal savings association organized under 12
9 U.S.C. 1461, as amended, and having its principal office in
10 Indiana, or of a savings association organized and operating under
11 Indiana statutes whose accounts are insured by a federal agency.
12 However, shares may not be purchased in excess of the amount of
13 insurance protection afforded a member or investor of the
14 association.

15 (4) An investment made under IC 5-13-9.

16 (b) All securities must be kept on deposit with the unit's fiscal
17 officer, or county treasurer acting under IC 36-4-10-6, who shall collect
18 all interest due and credit it to the 1937 fund.

19 (c) The fiscal officer (or county treasurer) shall keep a separate
20 account of the 1937 fund and shall fully and accurately set forth a
21 statement of all money received and paid out by ~~him~~ **the officer**. The
22 officer shall, on the first Monday of January and June of each year,
23 make a report to the local board of all money received and distributed
24 by ~~him~~ **the officer**. The president of the local board shall execute the
25 officer's bond in the sum that the local board considers adequate,
26 conditioned that ~~he~~ **the officer** will faithfully discharge the duties of
27 his office and faithfully account for and pay over to the persons
28 authorized to receive it all money that comes into ~~his~~ **the officer's**
29 hands by virtue of ~~his~~ **the officer's** office. The bond and sureties must
30 be approved by the local board and filed with the executive of the unit.
31 The local board shall make a full and accurate report of the condition
32 of the 1937 fund to the unit's fiscal officer on the first Monday of
33 February in each year.

34 (d) All securities that were owned by and held in the name of the
35 local board on January 1, 1938, shall be held and kept for the local
36 board by the unit's fiscal officer (or county treasurer) until they mature
37 and are retired. However, if an issue of the securities is refunded, the
38 local board shall accept refunding securities in exchange for and in an
39 amount equal to the securities refunded. All money received by the
40 local board for the surrender of matured and retired securities shall be
41 paid into and constitutes a part of the 1937 fund of the unit, as provided
42 in section 8 of this chapter.

43 (e) Investments under this section are subject to section 2.5 of this
44 chapter.

45 **(f) If the local board decides to allocate part of the assets of the**
46 **1937 fund to alternative investments (as defined in IC 5-10.2-2-18),**

1 **the local board shall comply with the limitations and restrictions**
 2 **set forth in IC 5-10.2-2-18.**

3 SECTION 132. IC 36-8-7.5-11 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) The local board
 5 shall determine how much of the 1953 fund may be safely invested and
 6 how much should be retained for the needs of the fund. The investment
 7 shall be made in interest bearing direct obligations of the United States,
 8 obligations or issues guaranteed by the United States, bonds of the state
 9 of Indiana or any political subdivision, or street, sewer, or other
 10 improvement bonds of the state of Indiana or any political subdivision.
 11 However, the local board may not invest in obligations issued by the
 12 consolidated city, the county, or any political subdivision in the county.
 13 Any securities shall be deposited with and remain in the custody of the
 14 treasurer of the local board, who shall collect the interest due on them
 15 as it becomes due and payable. The local board may sell any of the
 16 securities belonging to the 1953 fund and borrow money upon the
 17 securities as collateral whenever in the judgment of the local board this
 18 action is necessary to meet the cash requirements of the 1953 fund.

19 (b) The revenues derived from the tax levy authorized by section
 20 10(c) of this chapter may not be invested but shall be used for the
 21 exclusive purpose of paying the pensions and benefits that the local
 22 board is obligated to pay. These revenues are in addition to all money
 23 derived from the income on the investments of the board.

24 (c) Investments under this section are subject to section 1.5 of this
 25 chapter.

26 **(d) If the local board decides to allocate part of the assets of the**
 27 **1953 fund to alternative investments (as defined in IC 5-10.2-2-18),**
 28 **the local board shall comply with the limitations and restrictions**
 29 **set forth in IC 5-10.2-2-18.**

30 SECTION 133. IC 36-8-10-12 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) The department
 32 and a trustee may establish and operate an actuarially sound pension
 33 trust as a retirement plan for the exclusive benefit of the employee
 34 beneficiaries. However, a department and a trustee may not establish
 35 or modify a retirement plan after June 30, 1989, without the approval
 36 of the county fiscal body which shall not reduce or diminish any
 37 benefits of the employee beneficiaries set forth in any retirement plan
 38 that was in effect on January 1, 1989.

39 (b) The normal retirement age may be earlier but not later than the
 40 age of seventy (70). However, the sheriff may retire an employee who
 41 is otherwise eligible for retirement if the board finds that the employee
 42 is not physically or mentally capable of performing the employee's
 43 duties.

44 (c) Joint contributions shall be made to the trust fund:

45 (1) either by:

46 (A) the department through a general appropriation provided

- 1 to the department;
- 2 (B) a line item appropriation directly to the trust fund; or
- 3 (C) both; and
- 4 (2) by an employee beneficiary through authorized monthly
- 5 deductions from the employee beneficiary's salary or wages.
- 6 However, the employer may pay all or a part of the contribution
- 7 for the employee beneficiary.
- 8 Contributions through an appropriation are not required for plans
- 9 established or modifications adopted after June 30, 1989, unless the
- 10 establishment or modification is approved by the county fiscal body.
- 11 (d) For a county not having a consolidated city, the monthly
- 12 deductions from an employee beneficiary's wages for the trust fund
- 13 may not exceed six percent (6%) of the employee beneficiary's average
- 14 monthly wages. For a county having a consolidated city, the monthly
- 15 deductions from an employee beneficiary's wages for the trust fund
- 16 may not exceed seven percent (7%) of the employee beneficiary's
- 17 average monthly wages.
- 18 (e) The minimum annual contribution by the department must be
- 19 sufficient, as determined by the pension engineers, to prevent
- 20 deterioration in the actuarial status of the trust fund during that year. If
- 21 the department fails to make minimum contributions for three (3)
- 22 successive years, the pension trust terminates and the trust fund shall
- 23 be liquidated.
- 24 (f) If during liquidation all expenses of the pension trust are paid,
- 25 adequate provision must be made for continuing pension payments to
- 26 retired persons. Each employee beneficiary is entitled to receive the net
- 27 amount paid into the trust fund from the employee beneficiary's wages,
- 28 and any remaining sum shall be equitably divided among employee
- 29 beneficiaries in proportion to the net amount paid from their wages into
- 30 the trust fund.
- 31 (g) If a person ceases to be an employee beneficiary because of
- 32 death, disability, unemployment, retirement, or other reason, the
- 33 person, the person's beneficiary, or the person's estate is entitled to
- 34 receive at least the net amount paid into the trust fund from the person's
- 35 wages, either in a lump sum or monthly installments not less than the
- 36 person's pension amount.
- 37 (h) If an employee beneficiary is retired for old age, the employee
- 38 beneficiary is entitled to receive a monthly income in the proper
- 39 amount of the employee beneficiary's pension during the employee
- 40 beneficiary's lifetime.
- 41 (i) To be entitled to the full amount of the employee beneficiary's
- 42 pension classification, an employee beneficiary must have contributed
- 43 at least twenty (20) years of service to the department before
- 44 retirement. Otherwise, the employee beneficiary is entitled to receive
- 45 a pension proportional to the length of the employee beneficiary's
- 46 service.

(j) This subsection does not apply to a county that adopts an ordinance under section 12.1 of this chapter. For an employee beneficiary who retires before January 1, 1985, a monthly pension may not exceed by more than twenty dollars (\$20) one-half (1/2) the amount of the average monthly wage received during the highest paid five (5) years before retirement. However, in counties where the fiscal body approves the increases, the maximum monthly pension for an employee beneficiary who retires after December 31, 1984, may be increased by no more or no less than two percent (2%) of that average monthly wage for each year of service over twenty (20) years to a maximum of seventy-four percent (74%) of that average monthly wage plus twenty dollars (\$20). For the purposes of determining the amount of an increase in the maximum monthly pension approved by the fiscal body for an employee beneficiary who retires after December 31, 1984, the fiscal body may determine that the employee beneficiary's years of service include the years of service with the sheriff's department that occurred before the effective date of the pension trust. For an employee beneficiary who retires after June 30, 1996, the average monthly wage used to determine the employee beneficiary's pension benefits may not exceed the monthly minimum salary that a full-time prosecuting attorney was entitled to be paid by the state at the time the employee beneficiary retires.

(k) The trust fund may not be commingled with other funds, except as provided in this chapter, and may be invested only in accordance with statutes for investment of trust funds, including other investments that are specifically designated in the trust agreement.

(l) The trustee receives and holds as trustee all money paid to it as trustee by the department, the employee beneficiaries, or by other persons for the uses stated in the trust agreement.

(m) The trustee shall engage pension engineers to supervise and assist in the technical operation of the pension trust in order that there is no deterioration in the actuarial status of the plan.

(n) Within ninety (90) days after the close of each fiscal year the trustee, with the aid of the pension engineers, shall prepare and file an annual report with the department and the state insurance department. The report must include the following:

- (1) Schedule 1. Receipts and disbursements.
- (2) Schedule 2. Assets of the pension trust listing investments by book value and current market value as of the end of the fiscal year.
- (3) Schedule 3. List of terminations, showing the cause and amount of refund.
- (4) Schedule 4. The application of actuarially computed "reserve factors" to the payroll data properly classified for the purpose of computing the reserve liability of the trust fund as of the end of the fiscal year.

(5) Schedule 5. The application of actuarially computed "current liability factors" to the payroll data properly classified for the purpose of computing the liability of the trust fund as of the end of the fiscal year.

(o) No part of the corpus or income of the trust fund may be used or diverted to any purpose other than the exclusive benefit of the members and the beneficiaries of the members.

(p) If the trustee decides to allocate part of the assets of the pension trust to alternative investments (as defined in IC 5-10.2-2-18), the trustee shall comply with the limitations and restrictions set forth in IC 5-10.2-2-18.

SECTION 134. P.L.192-2002(ss), SECTION 207, IS REPEALED [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)].".

Page 134, between lines 45 and 46, begin a new paragraph and insert:

"SECTION 136. [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)] IC 6-3.1-24, as added by P.L.192-2002(ss), SECTION 119, and as amended by this act, applies to taxable years beginning after December 31, 2002.

SECTION 137. [EFFECTIVE JULY 1, 2003] IC 5-10.2-2-18, as added by this act, applies only to investments made after June 30, 2003.

SECTION 138. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "department" refers to the department of workforce development established by IC 22-4.1-2-1.

(b) As used in this SECTION, "job skills training program" has the meaning set forth in IC 22-4.1-7-1, as added by this act.

(c) Notwithstanding IC 22-4.1-7-4, as added by this act, the department shall adopt rules under IC 4-22-2 to establish standards for:

- (1) certifying job skills training programs in Indiana; and
- (2) certifying that a job skills training program is related to particular career fields or job classifications for purposes of allowing employees to claim a credit against state tax liability under IC 6-3.1-27, as added by this act;

as required under IC 22-4.1-7-4, as added by this act, not later than December 31, 2003.

(d) This SECTION expires January 1, 2005.

SECTION 139. [EFFECTIVE JULY 1, 2003] (a) IC 6-1.1-3-22 and IC 6-1.1-8-44, both as amended by this act, apply only to assessment dates after December 31, 2003.

(b) For purposes of IC 6-2.5-5-39, as added by this act, all transactions shall be considered as having occurred after June 30, 2003, to the extent that delivery of the property or services constituting selling at retail is made after that date to the purchaser or to the place of delivery designated by the purchaser. However, a transaction shall be considered as having occurred

1 before July 1, 2003, to the extent that the agreement of the parties
 2 to the transaction was entered into before July 1, 2003, and
 3 payment for the property or services furnished in the transaction
 4 is made before July 1, 2003, notwithstanding the delivery of the
 5 property or services after June 30, 2003.

6 (c) IC 6-3-1-24, IC 6-3-2-2, and IC 6-3-2-2.4, all as amended by
 7 this act, apply only to taxable years beginning after December 31,
 8 2003.

9 SECTION 140. [EFFECTIVE JANUARY 1, 2004] IC 6-3.1-26 and
 10 IC 6-3.1-27, both as added by this act, apply to taxable years
 11 beginning after December 31, 2003.

12 SECTION 141. [EFFECTIVE JANUARY 1, 2004] IC 6-3.1-28, as
 13 added by this act, applies to taxable years beginning after
 14 December 31, 2003.

15 SECTION 142. [EFFECTIVE JULY 1, 2003] (a) The duties
 16 conferred on the department of commerce relating to energy policy
 17 are transferred to the department of environmental management,
 18 established by IC 13-13-1-1, on July 1, 2003.

19 (b) The rules adopted by the department of commerce
 20 concerning energy policy before July 1, 2003, are considered, after
 21 June 30, 2003, rules of the department of environmental
 22 management until the department of environmental management
 23 adopts replacement rules.

24 (c) On July 1, 2003, the department of environmental
 25 management becomes the owner of all real and personal property
 26 relating to energy policy of the department of commerce.

27 (d) Any fund relating to energy policy under the control or
 28 supervision of the department of commerce on June 30, 2003, shall
 29 be transferred to the control or supervision of the department of
 30 environmental management on July 1, 2003.

31 (e) The legislative services agency shall prepare legislation for
 32 introduction in the 2004 regular session of the general assembly to
 33 organize and correct statutes affected by the transfer of
 34 responsibilities to the department of environmental management
 35 by this act.

36 (f) This SECTION expires June 30, 2004.

37 SECTION 143. [EFFECTIVE JULY 1, 2003] (a) The duties
 38 conferred on the department of commerce relating to tourism and
 39 community development are transferred to the department of
 40 tourism and community development, established by IC 4-4-3-2, as
 41 amended by this act, on July 1, 2003.

42 (b) The rules adopted by the department of commerce
 43 concerning tourism and community development before July 1,
 44 2003, are considered, after June 30, 2003, rules of the department
 45 of tourism and community development until the department of
 46 tourism and community development adopts replacement rules.

47 (c) On July 1, 2003, the department of tourism and community

1 development becomes the owner of all real and personal property
2 relating to tourism promotion and community development of the
3 department of commerce.

4 (d) Any fund relating to tourism and community development
5 under the control or supervision of the department of commerce on
6 June 30, 2003, shall be transferred to the control or supervision of
7 the department of tourism and community development on July 1,
8 2003.

9 (e) The legislative services agency shall prepare legislation for
10 introduction in the 2004 regular session of the general assembly to
11 organize and correct statutes affected by the transfer of
12 responsibilities to the department of tourism and community
13 development by this act.

14 (f) This SECTION expires June 30, 2004.

15 SECTION 144. [EFFECTIVE JULY 1, 2003] (a) The duties
16 conferred on the department of commerce relating to economic
17 development in Indiana, except those relating to energy policy or
18 tourism and community development, are transferred to the
19 economic development corporation, established by IC 4-3-13.7, as
20 added by this act, on July 1, 2003.

21 (b) The rules adopted by the department of commerce, except
22 those related to energy policy and tourism and community
23 development, before July 1, 2003, concerning the duties of the
24 department of commerce are considered, after June 30, 2003, rules
25 of the economic development corporation until the corporation
26 adopts replacement rules.

27 (c) On July 1, 2003, the Indiana economic development
28 corporation becomes the owner of all real and personal property,
29 except the real and personal property related to energy policy and
30 tourism and community development, of the department of
31 commerce.

32 (d) Any fund under the control or supervision of the department
33 of commerce, except funds related to energy policy and tourism
34 and community development, on June 30, 2003, is transferred to
35 the control or supervision of the economic development
36 corporation on July 1, 2003.

37 (e) The legislative services agency shall prepare legislation for
38 introduction in the 2004 regular session of the general assembly to
39 organize and correct statutes affected by the transfer of
40 responsibilities to the economic development corporation by this
41 act.

42 (f) This SECTION expires June 30, 2004.

43 SECTION 145. [EFFECTIVE JULY 1, 2003] (a) The budget
44 agency must identify fifty million dollars (\$50,000,000) of
45 appropriations made from the state general fund for FY 2003-2004
46 for cuts in FY 2003-2004. Notwithstanding IC 4-13-2-18, the budget
47 agency may not allot the fifty million dollars (\$50,000,000)

1 identified during FY 2003-2004.

2 (b) The appropriations that were identified not to be allotted
3 under subsection (a) for FY 2003-2004 must be permanent cuts in
4 the appropriations from which they were taken.

5 (c) The cuts identified in subsections (a) and (b) shall be
6 continued in FY 2004-2005. Notwithstanding IC 4-13-2-18, fifty
7 million dollars (\$50,000,000) of the appropriations for the
8 programs identified in subsections (a) and (b) may not be allotted
9 in FY 2004-2005.

10 (d) This SECTION expires July 1, 2005."

11 Renumber all SECTIONS consecutively.

(Reference is to HB 1001 as printed February 17, 2003.)

Representative Espich